

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being transmitted via the Office electronic filing system in accordance with § 1.6(a)(4).

Dated: August 28, 2009

Electronic Signature for Jill Gorny Sloper: /Jill Gorny Sloper/

Docket No.:CDJ-166RCE2
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Yashwant M. Deo *et al.*

Patent No.: 7,563,876
(USSN: 09/851,614)

Confirmation No.: 4957

Issued: July 21, 2009

Art Unit: 1644

For: HUMAN MONOCLONAL ANTIBODIES TO
DENDRITIC CELLS

Examiner: Ewoldt, Gerald R.

MS Patent Extension
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR
RECONSIDERATION UNDER 37 CFR §1.705(b) and (d)**

Dear Sir:

1. This is a request for reconsideration of the patent term adjustment (hereinafter “PTA”) of 613 days indicated on the face of the issued patent. It is respectfully requested that Patentees be granted a minimum patent term adjustment of **1170 days**.

2. In compliance with 37 CFR §1.705(d), Patentees submit herewith a “Statement Under 37 CFR §1.705(b)(2)”.

3. In accordance with 37 CFR §1.705(d), Patentees hereby authorize the fees set forth in 37 CFR §1.705(b)(1). Please charge the fee set forth in 37 CFR §1.18(e) (\$200.00) to our Deposit Order Account No. 12-0080. Please charge any necessary additional fees or credit any overpayments to our Deposit Order Account No. 12-0080.

Dated: August 28, 2009

Respectfully submitted,

By /Jill Gorny Sloper/
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Registration No.: 60,760
LAHIVE & COCKFIELD, LLP
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Boston, Massachusetts 02109
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Attorney For Patentees

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DENDRITIC CELLS

Examiner: Ewoldt, Gerald R.

MS Patent Extension
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

STATEMENT UNDER 37 CFR § 1.705(b)(2)

Dear Sir:

1. This statement is respectfully submitted in support of the “Application for Patent Term Adjustment Including Request for Reconsideration Under 37 CFR §1.705(b) and (d)” for the above-referenced patent. In view of the following, it is respectfully requested that Patentees be granted a minimum patent term adjustment of **1170 days**.

2. The patent term adjustment as shown on the face of the issued patent is 613 days. A copy of the PTO’s Patent Term Adjustment calculation (“PTA Sheet”) available on Private Pair is also submitted herewith as Exhibit A. Patentees respectfully submit that the determination of 613 days of patent term adjustment is incorrect for the reasons discussed below.

3. The factual bases for the above adjustment are set forth as follows:

A. Examination Delays Pursuant to 37 CFR §1.702 and §1.703

Pursuant to 37 CFR §1.703(f), the period of adjustment of the term of the patent under §1.702 is the sum of the periods of examination delay calculated under subparagraphs (a)-(e), to the extent that such periods are not overlapping, less the sum of the periods calculated under §1.704 (the period of Patentee Delay). In the above-referenced application, Patentees are entitled to a period of examination delay equal to the sum of the periods of delay under §1.703(a) and (b) for the reasons set forth below.

(i) “14 Month Delay” Pursuant to §1.703(a)(1)

In accordance with 37 CFR §1.703(a)(1), Patentees are entitled to a period of patent term adjustment due to the failure by the Office to mail an action under 35 U.S.C. §132 not later than 14 months after the actual filing date (*i.e.*, by July 8, 2002). As shown in Exhibit A, the Office failed to mail an action under 35 U.S.C. §132 (a Restriction Requirement) until July 14, 2004. As such, Patentees are entitled to a period of patent term adjustment beginning July 9, 2002 and ending on July 14, 2004, the date of mailing of the Restriction Requirement by the Office. Accordingly, the period of patent term adjustment due to the 14 Month Delay by the Office is **737 days**. This is consistent with the PTA Sheet (Exhibit A) from the Office.

(ii) “Three Years Delay” Pursuant to 37 CFR §1.703(b)

The Office did not comply with the requirement of 35 U.S.C. §154(b) and 37 CFR §1.702(b), which requires issuance of a patent within 3 years after the date on which the patent was filed under 35 U.S.C. §111(a). However, since the exclusionary period for continued examination set forth in 37 CFR §1.702(b)(1) applies to the instant patent, the number of days in the period beginning on the date on which Patentees first filed a Request for Continued Examination (January 23, 2006) and ending on the issue date of a corresponding patent (July 21, 2009), *i.e.*, 1276 days, is excluded from the period of Three Years Delay. Therefore, in accordance with 37 CFR §1.703, Patentees have calculated a maximum period of Three Years Delay based on the period of time beginning on the day after the date that is three years after the date on which the above-referenced patent was filed (*i.e.*, May 9, 2004), and ending on the date Patentees first filed a Request for Continued Examination (*i.e.*, January 23, 2006). This period of delay is **624 days**.

(iii) “4 Month PTO to Issue Patent” Pursuant to 37 CFR 1.702(a)(4)

Patentees respectfully submit that an additional period of examination delay of **268 days** accrued for the failure of the Office to issue a patent not later than four months after the date on which the issue fee was paid under 35 U.S.C 151 and all outstanding requirements were satisfied, as required by 37 CFR 1.702(a)(2). As shown in Exhibit A, the Office did not issue a patent until July 21, 2009. As such, Patentees are entitled to a period of patent term adjustment beginning October 27, 2008 and ending on July 21, 2009, the date the patent was issued by the Office. Accordingly, the period of patent term adjustment due to the 4 Month Delay by the Office is **268 days**. This is consistent with the PTA Sheet (Exhibit A) from the Office.

Calculation of Total Period of Examination Delay Pursuant to 37 CFR §1.703(f)

As set forth in 37 CFR §1.703(f), the period of examination delay based on the grounds set forth in 37 CFR §1.702 is the sum of the period of 14 Month Delay (737 days), the minimum period of Three Years Delay (624 days), and the 4 Month PTO Issue a Patent Delay (268 days) or 1629 days, to the extent these periods of delay are not overlapping. In this regard, Patentees respectfully submit that the only overlap that occurs is the period of the 14 Month Delay and the Three Year Delay overlap between May 8, 2004 through July 14, 2004, *i.e.*, by 67 days. Accordingly, the sum of the total examination delays (1629) is reduced by the period of overlap (67 days), resulting in a total examination delay of **1562 days**.

B. "Patentee Delay" Pursuant to 37 CFR §1.704

Pursuant to 37 CFR §1.704 the period of adjustment of the term of the patent due to examination delay is reduced by the period of Patentee Delay. Patentees have calculated a Patentee Delay of **392 days**. This is consistent with the PTA Sheet (Exhibit A) from the Office.

C. Calculation of Correct Patent Term Adjustment Pursuant to 37 CFR §1.702(f)

As set forth in 37 CFR §1.703(f), Patentees are entitled to a period of patent term adjustment equal to the period of examination delays reduced by the period of Patentee Delay. Therefore, Patentees submit that the correct patent term adjustment for the above-referenced patent is **1170 days**, which is the difference between the total period of examination delay (1562 days) and the Patentee Delay (392 days).

4. In accordance with 37 CFR§1.705(b)(2)(iii), Patentees submit that the patent is not subject to a terminal disclaimer.

US Patent No: 7,563,876
(USSN 09/851,614)

Group Art Unit: 1644

Dated: August 28, 2009

Respectfully submitted,

By /Jill Gorny Sloper/
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Registration No.: 60,760
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Attorney For Patentee

EXHIBIT A

09/851,614 HUMAN MONOCLONAL ANTIBODIES TO DENDRITIC CELLS 08-21-2009::15:42:44

Patent Term Adjustments

| | | | |
|---|------------|--------------------------------------|------|
| Patent Term Adjustment (PTA) for Application Number: 09/851,614 | | | |
| Filing or 371(c) Date: | 05-08-2001 | USPTO Delay (PTO) Delay (days): | 1005 |
| Issue Date of Patent: | 07-21-2009 | Three Years: | - |
| Pre-Issue Petitions (days): | +0 | Applicant Delay (APPL) Delay (days): | 300 |
| Post-Issue Petitions (days): | +0 | Total PTA (days): | 613 |
| USPTO Adjustment(days): | -92 | Explanation Of Calculations | |

Patent Term Adjustment History

| Date | Contents Description | PTO(Days) | APPL(Days) |
|------------|---|-----------|------------|
| 07-01-2009 | PTA 36 Months | | |
| 07-21-2009 | Patent Issue Date Used in PTA Calculation | 268 | |
| 06-24-2009 | Dispatch to FDC | | |
| 06-19-2009 | Dispatch to FDC | | |
| 06-15-2009 | Mail-Record a Petition Decision of Granted for Patent Term Adjustment after Allowance | | |
| 06-15-2009 | Record a Petition Decision of Granted for Patent Term Adjustment after Allowance | | |
| 06-15-2009 | Record a Petition Decision of Granted for Patent Term Adjustment after Allowance | | |
| 06-14-2009 | Adjustment of PTA Calculation by PTO | | 94 |
| 06-14-2009 | Adjustment of PTA Calculation by PTO | | |
| 06-14-2009 | Adjustment of PTA Calculation by PTO | | 30 |
| 06-14-2009 | Adjustment of PTA Calculation by PTO | | |
| 06-14-2009 | Adjustment of PTA Calculation by PTO | 13 | |
| 06-14-2009 | Adjustment of PTA Calculation by PTO | | |
| 06-14-2009 | Adjustment of PTA Calculation by PTO | 19 | |
| 06-14-2009 | Adjustment of PTA Calculation by PTO | | |
| 06-26-2008 | Petition Entered | | |
| 07-10-2008 | Dispatch to FDC | | |
| 07-03-2008 | Application Is Considered Ready for Issue | | |
| 06-26-2008 | Issue Fee Payment Verified | | |
| 06-26-2008 | Issue Fee Payment Received | | |
| 05-01-2008 | Sequence Forwarded to Pubs on Tape | | |

EXHIBIT A

| | | | |
|------------|---|---|----|
| 04-17-2008 | Mail Notice of Allowance | 🔒 | |
| 04-14-2008 | Document Verification | 🔒 | |
| 04-14-2008 | Notice of Allowance Data Verification Completed | 🔒 | |
| 02-13-2008 | Date Forwarded to Examiner | 🔒 | |
| 01-23-2008 | Response after Non-Final Action | 🔒 | |
| 01-04-2008 | Mail Non-Final Rejection | 🔒 | |
| 01-03-2008 | Non-Final Rejection | 🔒 | |
| 11-15-2007 | Date Forwarded to Examiner | 🔒 | |
| 11-15-2007 | Date Forwarded to Examiner | 🔒 | |
| 10-24-2007 | Request for Continued Examination (RCE) | 🔒 | |
| 11-15-2007 | DISPOSAL FOR A RCE/CPA/129 (express abandonment if CPA) | 🔒 | |
| 10-24-2007 | Request for Extension of Time - Granted | 🔒 | |
| 10-24-2007 | Miscellaneous Incoming Letter | 🔒 | |
| 10-24-2007 | Workflow - Request for RCE - Begin | 🔒 | |
| 09-05-2007 | Correspondence Address Change | 🔒 | |
| 08-30-2007 | Mail Advisory Action (PTOL - 303) | 🔒 | |
| 08-28-2007 | Advisory Action (PTOL-303) | 🔒 | |
| 08-20-2007 | Date Forwarded to Examiner | 🔒 | |
| 08-15-2007 | Amendment/Argument after Notice of Appeal | 🔒 | |
| 06-29-2007 | Notice of Appeal Filed | | 87 |
| 06-29-2007 | Request for Extension of Time - Granted | 🔒 | |
| 07-30-2004 | Information Disclosure Statement considered | 🔒 | |
| 07-30-2004 | Information Disclosure Statement (IDS) Filed | 🔒 | |
| 05-17-2007 | Mail Advisory Action (PTOL - 303) | 🔒 | |
| 05-14-2007 | Advisory Action (PTOL-303) | 🔒 | |
| 04-05-2007 | Date Forwarded to Examiner | 🔒 | |
| 03-27-2007 | Amendment after Final Rejection | 🔒 | |
| 01-03-2007 | Mail Final Rejection (PTOL - 326) | 🔒 | |
| 12-22-2006 | Final Rejection | | |
| 09-29-2006 | Information Disclosure Statement considered | | |
| 09-29-2006 | Reference capture on IDS | | |
| 09-29-2006 | Information Disclosure Statement (IDS) Filed | | |

EXHIBIT A

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|------------|---|---|
| 09-29-2006 | Information Disclosure Statement (IDS) Filed | |
| 09-29-2006 | Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received | |
| 10-12-2006 | Date Forwarded to Examiner | |
| 09-29-2006 | Response after Non-Final Action | 92 |
| 09-29-2006 | Request for Extension of Time - Granted |  |
| 03-29-2006 | Mail Non-Final Rejection |  |
| 03-20-2006 | Non-Final Rejection | |
| 12-08-2005 | Examiner Interview Summary Record (PTOL - 413) | |
| 02-22-2006 | Preliminary Amendment | |
| 01-23-2006 | Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received | |
| 01-23-2006 | Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received | |
| 01-23-2006 | Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received | |
| 01-23-2006 | Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received | |
| 01-23-2006 | Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received | |
| 01-23-2006 | Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received | |
| 01-23-2006 | Information Disclosure Statement considered | |
| 01-30-2006 | IFW TSS Processing by Tech Center Complete | |
| 01-23-2006 | Reference capture on IDS | |
| 01-23-2006 | Information Disclosure Statement (IDS) Filed | |
| 01-23-2006 | Information Disclosure Statement (IDS) Filed | |
| 01-30-2006 | Date Forwarded to Examiner | |
| 01-30-2006 | Date Forwarded to Examiner | |
| 01-23-2006 | Request for Continued Examination (RCE) | |
| 01-30-2006 | DISPOSAL FOR A RCE/CPA/129 (express abandonment if CPA) | |
| 01-23-2006 | Request for Extension of Time - Granted | |
| 01-23-2006 | Workflow - Request for RCE - Begin | |

EXHIBIT A

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|------------|--|-----|----|
| 07-21-2005 | Mail Final Rejection (PTOL - 326) | | |
| 07-18-2005 | Final Rejection | | |
| 05-11-2005 | Date Forwarded to Examiner | | |
| 05-03-2005 | Response after Non-Final Action | | 89 |
| 05-03-2005 | Request for Extension of Time - Granted | ⌄ | |
| 11-03-2004 | Mail Non-Final Rejection | ⌄ | |
| 10-29-2004 | Non-Final Rejection | | |
| 08-19-2004 | Date Forwarded to Examiner | | |
| 08-13-2004 | Response to Election / Restriction Filed | | |
| 10-29-2004 | Mail-Record Petition Decision of Granted Related to Inventor in Application | | |
| 08-13-2004 | Workflow incoming amendment IFW | | |
| 07-19-2004 | Petition Entered | | |
| 07-19-2004 | Oath or Declaration Filed (Including Supplemental) | | |
| 07-19-2004 | Miscellaneous Incoming Letter | | |
| 07-02-2003 | Preliminary Amendment | | |
| 07-19-2004 | Workflow incoming petition IFW | | |
| 07-14-2004 | Mail Restriction Requirement | 737 | |
| 07-13-2004 | Requirement for Restriction / Election | ⌄ | |
| 12-19-2003 | Correspondence Address Change | ⌄ | |
| 10-08-2003 | Date Forwarded to Examiner | ⌄ | |
| 10-07-2003 | Supplemental Response | | 13 |
| 10-08-2003 | Date Forwarded to Examiner | ⌄ | |
| 09-24-2003 | Response to a Letter to Comply with the Sequence Rules | | 19 |
| 06-05-2003 | Mail Letter Requiring CRF (Unreadable, Non- Compliant, Not Submitted) | ⌄ | |
| 06-05-2003 | CRF Diskette Unreadable / Did Not Comply / Required but Not Submitted | | |
| 07-01-2002 | Information Disclosure Statement (IDS) Filed | | |
| 07-01-2002 | Information Disclosure Statement (IDS) Filed | | |
| 02-25-2002 | Information Disclosure Statement (IDS) Filed | | |
| 02-25-2002 | Information Disclosure Statement (IDS) Filed | | |
| 12-15-2001 | Case Docketed to Examiner in GAU | | |

EXHIBIT A

| | |
|------------|---|
| 11-08-2001 | Application Dispatched from OIPE |
| 11-05-2001 | Application Is Now Complete |
| 07-18-2001 | Notice Mailed--Application Incomplete-- Filing Date Assigned |
| 07-18-2001 | Correspondence Address Change |
| 06-11-2001 | CRF Is Good Technically / Entered into Database |
| 05-22-2001 | IFW Scan & PACR Auto Security Review |
| 05-08-2001 | CRF Disk Has Been Received by Preexam / Group / PCT |
| 05-08-2001 | Initial Exam Team nn |

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